

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DEMOR CLARKE,

Plaintiff,

v.

19-CV-328-LJV-LGF
DECISION & ORDER

UNITED STATES OF AMERICA,

Defendant.

On March 13, 2019, the plaintiff, Demor Clarke, commenced this action while he was detained at the Buffalo Federal Detention Facility awaiting removal from the United States. Docket Item 1. On October 10, 2019, this Court referred the matter to United States Magistrate Judge Leslie G. Foschio for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Docket Item 7.

On November 21, 2019, Clarke was removed from the United States. Docket Item 12 at 9-10, 12, 15. He did not leave a forwarding address. *Id.* at 5, 12. On December 3, 2019, Judge Foschio adjourned the matter until February 4, 2020, to allow Clarke time to contact the court and update his address. Docket Item 9. To date, Clarke has not contacted the court, the Clerk of the Court, or the defendant.

On February 24, 2020, the defendant moved to dismiss the complaint for Clarke's failure to prosecute. Docket Item 12. Clarke did not respond to that motion. On January 5, 2021, Judge Foschio issued a Report and Recommendation ("R&R") finding that the defendant's motion should be granted. Docket Item 16. The parties did

not object to the R&R, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

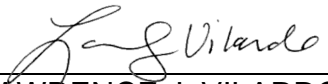
A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). The court must review *de novo* those portions of a magistrate judge's recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Foschio's R&R as well as the submissions to him. Clarke has left no forwarding address, nor has he made any attempt to update his address or otherwise participate in this case. The Court accordingly is left with the impression that Clarke has abandoned his claims. Therefore, this Court accepts and adopts Judge Foschio's recommendation to grant the motion to dismiss.

For the reasons stated above and in the R&R, the defendant's motion to dismiss, Docket Item 12, is GRANTED; the complaint, Docket Item 1, is dismissed; and the Clerk of the Court shall close the file.

SO ORDERED.

Dated: February 8, 2021
Buffalo, New York



LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE